

# **EXHIBIT 3**

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5 Attorneys for Plaintiff  
TERAS CARGO TRANSPORT  
6 (AMERICA), LLC.

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 TERAS CARGO TRANSPORT (AMERICA),  
LLC.,

12 Plaintiff,

13 v.  
14

15 CAL DIVE INTERNATIONAL  
(AUSTRALIA) PTY LTD.,

16 Defendants.  
17

Case No. 3:15-cv-3566

**COMPLAINT FOR DAMAGES**

18 Plaintiff TERAS CARGO TRANSPORT (AMERICA), LLC (“TCTA”) alleges as follows:  
19

20 **JURISDICTION**

21 1. This is a suit for breach of a vessel charter party, which is a maritime contract, and  
22 comprises an admiralty and maritime claim pursuant to Rule 9(h) of the Federal Rules of Civil  
23 Procedure and 28 U.S.C. § 1333(1). In the alternative, because the plaintiff is a Delaware limited  
24 liability company and the defendant is a business entity organized under the laws of Australia, and  
25 because the amount in controversy exceeds the jurisdictional minimum, this matter falls within the  
26 diversity jurisdiction of this Court pursuant to 28 U.S.C. § 1332.  
27  
28

1 **INTRADISTRICT ASSIGNMENT**

2 2. A substantial amount of events relevant to the case occurred in Marin County, and  
3 it is therefore properly assigned to the San Francisco or Oakland divisions of this Court.

4 **THE PARTIES**

5 3. Plaintiff TCTA is now and at all times material herein was a limited liability  
6 company organized under the laws of the State of Delaware.

7 4. Defendant CAL DIVE INTERNATIONAL (AUSTRALIA) PTY LTD ("CDIA")  
8 is, on information and belief, a business entity organized under the laws of Australia.

9 **GENERAL ALLEGATIONS**

10 5. At times relevant, TCTA and CDIA were parties to a contract titled "Master Marine  
11 Services Agreement CDIA-MMSA-2015-001" ("MMSA") and additionally, pursuant and subject  
12 to the MMSA, signatories to two "Vessel Charter Orders" for the ocean vessel named TERAS  
13 SUNRISE.

14 6. The MMSA provided, *inter alia*, terms and conditions that govern the charter of  
15 vessel(s) by TCTA to CDIA and the obligation to pay charter hire for such vessel(s). The MMSA  
16 provided, in part:

17 **9. PAYMENT**

18 For the services of said Vessels and their crews, and/or for the charter of Barges, Contractor  
19 shall pay Owner the Hire rate per day or hour agreed to in the Charter Order or pro rata for  
20 part thereof beginning on the day or hour, as applicable, said Vessels are delivered to  
21 Contractor at the place specified in the Charter Order in the on hire condition required under  
22 this Agreement. Owner shall bill Contractor at the above specified place or such other  
23 address as Contractor may from time-to-time designate in writing. Owner shall bill  
24 Contractor monthly at Contractor's address for notices appearing below and Contractor shall  
25 pay to Owner within Thirty Five (35) days after receipt of invoice, at Owner's address for  
26 notices appearing below, the undisputed amount of the bill. For any amount withheld by  
27 Contractor as disputed, Contractor shall, at the time the payment is due, provide a full written  
28 explanation for the withholding. Owner shall provide Contractor with a written response  
within 5 days of receipt of the Contractor's explanation. No later than 10-days thereafter,  
Senior Management of both Contractor and Owner with full authority shall meet (in person  
or by phone) for the purpose of good faith resolution of the dispute. Contractor shall pay  
Owner the Hire rate agreed to in the Charter Order until the said Vessels are redelivered at  
the place specified in the Charter Order. If any Vessel is lost or destroyed or becomes a  
constructive or compromised total loss after delivery to Contractor, payment shall be made  
up to and including the date of its loss or destruction (if the time of their loss or destruction  
be uncertain then up to and including the day it is last heard from). The charter hire of the

Vessel shall not be interrupted by unusual or inclement weather that prevents the operation of the Vessel when the Vessel is otherwise available for services.

7. TCTA chartered the vessel TERAS SUNRISE to CDIA pursuant to the MMSA and Vessel Charter Orders, including but not limited to the terms and conditions set forth above.

8. Under the MMSA and the Vessel Charter Orders, Defendant was and is obligated to pay the entire amounts of charter hire due thereunder, but has failed to do so, in a timely fashion or otherwise, as required by applicable law and/or the applicable contract.

9. Defendant presently owes an amount according to proof in excess of US\$800,000 in outstanding charter hire. Plaintiff has demanded payment of the outstanding charter hire and/or hereby demands payment thereof.

10. Plaintiff has performed each and all of its obligations, actual and implied, arising pursuant to its contracts with Defendants and imposed by law.

WHEREFORE, plaintiff TCTA prays judgment as follows:

1. For at least US\$800,000 and interest thereon at the legal rate;
2. For all sums and amounts found to be due and owing from the defendants to plaintiffs as a result of said accounting along with interest thereon at the legal rate.
3. For all costs of suit, attorney fees and other expenses herein incurred;
4. For such and other relief as the Court may deem proper.

Dated: August 3, 2015

CLYDE & CO US LLP

By: /s/ Conte C. Cicala

Conte C. Cicala

Attorneys for Plaintiff

TERAS CARGO TRANSPORT (AMERICA),  
LLC

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## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

TERAS CARGO TRANSPORT (AMERICA), LLC

(b) County of Residence of First Listed Plaintiff n/a  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Conte C. Cicala

Clyde &amp; Co US LLP

101 Second Street, 24<sup>th</sup> Floor

San Francisco, CA 94105

Tel: 415.365.9800

**DEFENDANT** CAL DIVE INTERNATIONAL (AUSTRALIA) PTY LTD.

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input checked="" type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input checked="" type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input checked="" type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC § 1332; Rule 9(h)

Brief description of cause:

Breach of Maritime Contract

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$800,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE August 3, 2015

SIGNATURE OF ATTORNEY OF RECORD /s/ Conte C. Cicala

**IX. DIVISIONAL ASSIGNMENT** (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

